· Case 1:11-cv-04047-AJP Document 30 Filed 10/19/11 Page 1 of 16

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK	
·UMAR. AII.	
(In the space above enter the full name(s) of the plaintiff(s)/petitioner(s).)	11 Civ. 4047 (RJ) (AJ)
- against - Kathleen Mulley Et. AL	USDONSTINCE OF MOTION DOCUMENT ELECTRONICALLY FILED DOC#: DATE FILED: 10 19/11
(In the space above enter the full name(s) of the defendant(s)/respondent(s).)	22 3
PLEASE TAKE NOTICE that upon the annexed affirm affirmed on OCt. 10, 2011, and upon the exhibits (date) exhibits), the accompanying Memorandum of Law in support of Memorandum of Law), and the pleadings herein, plaintiff/defendant (circle one) United States District Magis	attached thereto (delete if no 5) This motion (delete if there is no 5) Twill move this Court, before
(Judge's name) pursuant to Rule of the Federal Rules of Civil Proce Judge to order): 10,500000000000000000000000000000000000	dure granting (state what you want the
and rules and regulation rights in Puntive seger	Filled to defendants s regard religious
I declare under penalty of perjury that the foregoin	g is true and correct.
Dated: City) Signature Cost (city) (state) Address 09-00 Choker 12, 201 Cast ElmH1 (month) (day) (year) Telephone Number Fax Number (if you	

Case 1:11-cv-04047-AJP Document 30 Filed 10/19/11 Page 2 of 16

UNITED STATES DISTRICT COURT	
SOUTHERN DISTRICT OF NEW YORK	
(In the space above enter the full name(s) of the plaintiff(s)/petitioner(s).)	11 Civ. 4047 ()
- against - KAHHLEEN MUVIEY Et. AL	AFFIRMATION IN SUPPORT OF MOTION
(In the space above enter the full name(s) of the defendant(s)/respondent(s).)	
1. I, Whit fill, affirm under penalty 1. I, Whit fill, am the plaintiff defend (name) and respectfully move this Court to issue an order (state of the court) (state of the court is sue an order of the court is such as a court of the court	Jery 3.7.2. Towket you want the Judge to order)
using additional paragraphs and sheets of paper as necessary):	
WHEREFORE, I respectfully request that the Court other and further relief as may be just and proper. I declare under penalty of perjury that the foregoing	
October 12th, 20 Signature Continued (city) (month) (day) (year) Signature Continued (state). Address 09-0 East Elmhur Telephone Number	
Fax Number (if you	

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK	
UMAR ALLI	
(In the space above enter the full name(s) of the plaintiff(s)/petitioner(s).)	RJS AJP (L_ Civ. 4047(_) (_)
- against - KAtHLEEN MULKEY Et. A	
	- -
(In the space above enter the full name(s) of the defendant(s)/respondent(s).)	-
I, CMAR, All), declare	under penalty of perjury that I have
served a copy of the attached	DISCOVERY nt you are serving)
upon Judge Andrew J. Peck (name of person served)	. 6/
VEarl, St NY, NY 100 Where you served documen	
by (how you served document: For example - personal del	
Dated: Cost Elimiturst, Million (town/city) (state) Signature (month) (day) (year) City, State	09 Hazen, St Eumhurst 113170
Zip Code Telephone i	Number (

United States district court Southern district of NEW York

UMAR AII.

Plaintiff

Against -

Reply to ANSWER IICH 4047 (RIS)(AJP)

KATHIEEN MUVIEY ET AL Defendants

I Plaintiff/Prose counsel intends to offer reply to answer of complaint respectfully allege as follows 1:

2. All facts are accurate in Paragraph 2. 3. All facts are accurate in Paragraph 2. 3. All facts are accurate in Paragraph 3. 4. All facts are occurate in Paragraph 4.

5. All facts are occurate in Paragraph 5"
6. All facts are occurate in Paragraph 6"

Frocts in paregraph of are accurate the Precepts of islam and importance of attending Jumman fridays weekly is well known thoughout the bappriment of actreations and included facilities. Weekly Jumman service is afforded and Should be afforded thoughout NEW York City and New York City and New York State Jumman services are so somere thoughout D.C.C immates are alwayed to texuse court and Other services on Jumman fridays.

Music by send differents.

A copy of the Complaint with its foragraphs numbered Exhibit"A"

9. All calms in Paragraph "4" are accurate, Yet if Counsel is informing George - B. Vienno Center neuses for mental booms influence immunes disciplinary issues oscied with Mental bearing Warrants the clenial of First admentiment lights and mandatory religious services Des Banton correctional center and George . R. Vienno center is entirely the same . No religious violation should take prace in any facility.

10. Desputing Counsel Claim in Acragraph "10" If inmates in George , R. Vienro Center are allowed to congregate during the Holy Dotth of Tamandan Why aren't they allowed to Partake in JVMNIAIN Which is equally important.

11. All Claims are accurate in Paragraph "11" 12. All claims are accurate in foragraph" 12" 13. Disputing course! Claim in ParagraPh'13" officer are favoring other immetes reigion , depriving Jummah Services and Showing forms of discrimination. According to DIGIT PONCY, Toles, directive there should be a religious reader assigned to both General Especiation and Funitive Seg

14 All Claims in Paragraph 14 are accurate. 15. All Claims in Paragraph 15 - are accorded 17, All Claims in Mondaugh "IT" can accorde 10 An Claums in Formy over into one excepted 19. But Course in gridge political consumo QO 290 Ch 1875 IN PROPERTURE AND DRESS ON CONTRACT

Dispessioning courses claims in paragraph 21'
Plantiff Exhausted all available remdies.

Plantiff fined Dumerous complaints/grievances;

Yet Plantiff Received Do response or Complaint/

grievance Log number or any form of acknowlegement

according to the inmate Grievance resolution

Program/grievance directive if you don't hear

a decision within the deadline you should

appear of fire next Step. Grievance Procedures

attached Exhibit B.

22 Ali Ciaims are accurate in Paragraphi 22° Plantiff Teported all issues in Claim to Gill defendants

D3. All claims are accurate in Paragraph 23"
Plantiff exhausted all available remdies.

D4. All claims are accurate in Paragraph 04"

25. All claims are accurate in Paragraph 35"

S6. All claims are accurate in Paragraph 35"

Peply to All Desenses

Flantiff clearly stated a claim which relief can be granted This action arises under the first admendment to the united states constitution, free exercise dause, Rivippi. Establishment clause and under 42 u.s. & \$1983. Plantiff exhausted all remders as Stated in complaint. Qualified immunity is a defense one can raise yet its usually decided by the Judge. Qualified immunity is not a defense for insunctive relief or constitutional rights that were violeted.

a cory of Inmate Grenance Agsolution Truggerin Exhibit B

. (contid)

Defendants Clearly Knowingly, willingly and intentionally violated humerous rights thoughout this complaint and failed to remedy or Prevent such oxition from occuring. Defendant are habit under supervisor habitly, acting Under Color of State law, indirect municipal habitly and Creating or allowing an unconstitutional today or Eustern.

WHEREFORE, Plant FF Bequest sudgment denying defendants cousines reguest to dismiss compraint and deman of an range Plantiff sequest savy by than and chequate reserve

Dated: East Elmburst October 12th 2011

> UMAR, LIP 241-10-07470 09-09 Horzen, st East, Elminurst, NIJ 11370

TOPPIC SE OFFICE

Corporation competer the City of New York

Magistrate Judge Andrew & Weck

(for more in total)



Prisoners' Rights Project 199 Water Street New York, NY 10038 T (212) 577-3530 www.legal-aid.org

MEMORANDUM

Blaine (Fin) V. Fogg President

Steven Banks
Attorney-in-Chief

Adriene L. Holder Attorney-in-Charge Civil Practice

John Boston *Project Director* Prisoners' Rights Project

To: Prisoners in the Custody of NYC Department of Correction

From: Prisoners' Rights Project

Re: Inmate Grievance Resolution Program

As an inmate in the custody of New York City Department of Corrections, you have the right to file a complaint about an issue or policy that directly affects you using the farmate Grievance Resolution Program guidelines. This memo describes the importance and purpose of the grievance process, and gives you an overview of the steps you must follow to file a grievance to completion.

We have heard from many inmates that the grievance process seems fruitless, but there are two key reasons why you should follow the grievance procedures carefully: first, if you plan to file a federal lawsuit or an Article 78 proceeding, you must exhaust the grievance process (described in more detail below). Failure to do so will result in a rejection of your lawsuit. Second, filing a grievance creates or adds to the record about a particular problem. A history of grievances about a particular issue or officer can make it easier to support your claim, and you may help others in the future who have similar complaints by leaving a paper trail of your own.

Under federal law (the Prison Litigation Reform Act), if you do not **exhaust** the grievance process—by appealing any adverse decisions all the way through the system—you will be barred from bringing a federal lawsuit arising from the incident. As explained below, the grievance exhaustion requirement does not apply to complaints arising from staff or inmate assaults, or from classification decisions. But complaints about medical care, including complaints about access to medical care, **must** be exhausted.

As long as your grievance is filed correctly, it should be reviewed by the Inmate Grievance Resolution Committee (IGRC). If you are not satisfied with the IGRC's decision, you must appeal to the Commanding Officer of the facility, then to the Central Office Review Committee, and finally, to the NYC Board of Correction.

A grievance must be filed quickly and correctly, and there are a number of steps you have to follow in the appeals process, which are explained in the flow chart attached to this memo. While the attention to detail required may seem tedious, the grievance process is one of the only ways to have your complaints heard by DOC, and is the only way to preserve your right to bring a lawsuit later, so you should follow the grievance instructions carefully. If you have a disability or do not know how to read or write in English, you have the right to certain accommodations. Seek out your facility's Grievance Supervisor to get the assistance you need.

The grievance process is meant to address complaints about how general policies. Issues, rules, procedures or specific implementation of such policies, issues, rules, or procedures have negatively affected you. DOC has deemed certain issues "non-grievable;" that is, you should not use the grievance process to address them because they require a different procedure for lodging a complaint. For example, the grievance process will not help you resolve **classification** complaints related to Centrally Monitored Case status, Red ID or Enhanced Restraint Status, or Protective Custody designation. Nor is the grievance process open to complaints about staff assaults, or inmate assaults which staff permitted or failed to prevent. These complaints are deemed "non-grievable."

If you are concerned about whether your complaint is grievable, you should check with your facility's Inmate Grievance Clerk or Inmate Housing Aid. These are men or women who have been elected to the IGRC by fellow inmates, and whose job it is to help you with the grievance process.

Once you have determined that your issue is grievable, the next step is to submit your complaint within 10 days from the date the alleged issue took place. Your complaint can be filled out using an "Inmate Grievance Form" (Form #143), an "Inmate Grievance Form" (Form #7101 R), or even on a plain piece of paper if neither form is available. Your complaint must contain your name; Book and Case number; present housing facility; and a brief but specific description of the complaint and how you would like the problem to be addressed. If you simply ask to speak with the IGRC, if you don't include specific facts in your complaint, or if you have not been personally affected by the issue you raise, your grievance will be dismissed.

Next, you need to file your **grievance**. You can do this by depositing it in the "Grievance Box" in the housing area, delivering it to the Grievance Office, or by giving it to the Grievance Coordinator. If the complaint is grievable, it will be forwarded to the Inmate Grievance Resolution Committee (IGRC), who will meet to discuss your complaint, and vote on how to respond. The IGRC is made up of one correction officer and four inmates, who have been elected as members of your community who can make objective and fair assessments of grievances. The IGRC should meet within 5 days and render a decision. If you are unsatisfied with the decision, you must appeal it. The deadlines for appeal are strict and you should follow the attached flow chart to appeal each decision as it moves up the chain, if you continue to be unsatisfied with the decision.

It is important to note that **if you do** *not* **hear about a decision** within the deadline, you should assume that your grievance has been **rejected** and that you should appeal it within the deadline if you would like to pursue the complaint. It is critical that you count the days carefully so you do not miss any deadlines. Each "day" means full calendar days, not including weekends and holidays. Remember that the steps of the grievance resolution program must be "exhausted" (that is, appealed to the highest level) in order for you to bring a lawsuit in the future. (Again, complaints arising from assaults are not grievable in the City jails.)

The attached flow chart should help you navigate this process, and will give you guidance about deadlines at each step of the grievance process.

STEP 1: SUBMITTING THE COMPLAINT TO THE IGRC

Occurrence of the Alleged Issue
The policy or issue the inmate is
grieving must have personally
affected the inmate directly

Submission of Complaint

Within 10 days from the date the alleged issue took place.

- (1) An inmate must submit a complaint on an:
 - "Inmate Grievance Form" (Form #143), or
 - "Inmate Grievance Form" (Form #7101 R), or
 - If no forms are available, plain paper
- (2) And file the grievance as follows:
 - Deposit into a "Grievance Box" in the housing area, or
 - Deliver it to the Grievance Office, or
 - Give it to the Grievance Coordinator

<u>Determination of a Complaint as a Grievance</u>
If a complaint is grievable, it will be numbered and logged.

If a complaint is non-grievable, the IGS will log it in the "Non-Grievable Logbook" and communicate the determination to the inmate, via Form #7114.

The 5 Day Period

IGRC has up to 5 days to review a grievance or resolve it informally.

If the inmate <u>receives a response</u> within the 5 day period, the inmate can request a hearing 5 days from notification of disposition if:

- No informal resolution , or
- Inmate does not agree with the informal resolution of the grievance

If the inmate does not receive a response within the 5 day period, then the inmate can request a hearing using Form #7101R (Grievance Office) at the end of the 5 day period.

^{*}Extensions may be allowed if there is a valid reason for delay (i.e. circumstances beyond inmate's control)



IGRC Hearing

Within 3 days of the request for a hearing, the full IGRC will hear the complaint and render a decision.

- (1) Notification of Hearing: IGS will serve a Hearing Notice on the inmate

 ***** If the inmate does not receive a Hearing Notice within 3 days of
 the request for a hearing, then the inmate should file an appeal at
 the end of the 3 day period with the Grievance Office.
- (2) Hearing: Inmate and witnesses may present relevant information at hearing
 - * If inmate misses the hearing <u>without a legitimate and substantiated</u> <u>reason</u>, then the IGRC will hold the hearing in absentia
 - * If inmate misses the hearing with a legitimate and substantiated reason, then the IGRC may adjourn the hearing. BUT if the inmate misses 3 hearing due to legitimate reasons, IGRC will act at the 3rd hearing.
- (3) Decision: After IGS closes the hearing, IGRC must notify the inmate of the decision in writing within 2 days.

Filing an Appeal (if decision received)

Within 5 days after receiving IGRC's decision, an inmate may appeal the action by filing an appeal with the Grievance Office, which will be dated and stamped.

*Extensions may be allowed if there is a valid reason for delay

(i.e. circumstances beyond inmate's control)

Filing an Appeal (if no decision)

If the inmate <u>does not receive</u> notification of IGRC's decision within 2 days after the hearing, then the inmate should file an appeal at the end of the 2 day period after the hearing with the Grievance Office.

IGS will forward the appeal to the Commanding Officer within 1 day of receipt.

STEP 2: APPEAL PROCESS TO THE COMMANDING OFFICER

Referral to the Commanding Officer

Relevant papers will be transmitted by the Grievance Office to the Commanding Officer within 1 day after receipt of the appeal.

Commanding Officer will date-stamp all grievances received and determine if the grievance is departmental or institutional in nature.

If Departmental Issue...

- (1) Commanding Officer will forward the grievance papers and a recommendation to the IGS within 5 days.
- (2) IGS will forward the recommendation to the Executive Director, IGRP within 1 day.
- (3) Executive Director will forward the recommendation to the CORC within 5 days of receipt.

If Institutional Issue...

- (1) Commanding Officer will render a decision on the grievance within 5 days from the time the appeal was received.
- (2) Commanding Officer will forward a copy of the decision to the IGS within 1 day of the decision.
- (3) IGS will then forward the decision to the inmate within 5 days of receipt of documentation.

Filing an Appeal of the Commanding Officer's Response

 If the Commanding Officer's <u>response to the grievance</u> is <u>received</u> by inmate within 12 days after the inmate filed an appeal to the Commanding Officer:

The inmate may **appeal to CORC** by filing an appeal with the facility Grievance Office **within 5 days** after having received the Commanding Officer's response.

*Extensions may be allowed if there is a valid reason for delay (i.e. circumstances beyond inmate's control)

If the inmate <u>does not</u> receive a response from the Commanding Officer within
 12 days of filing an appeal of the IGRC's decision to the Commanding Officer:

The inmate should **appeal to CORC** at the end of the 12 day period by filing an appeal with the Grievance Office.

Executive Director of IGRP will forward the appeal papers to CORC within 5 days.

STEP 3: APPEAL TO THE CORC

Informal Review

If in the opinion of the IGRP Executive Director the appeal does not require a full CORC meeting, then the Executive Director may first process the CORC appeal informally.

Formal Review

If the matter concerns a departmental issue, then CORC must submit a majority decision within 15 days of receipt of the appeal.

If Unanimous CORC Decision...

The unanimous informal decision will be transmitted to all appropriate parties within 5 days of receipt of the decision.

If Unresolved Informal CORC Hearing ...

A formal review must occur if the decision is not unanimous. CORC will submit a majority decision within 10 days of receiving the appeal.

Filing an Appeal of CORC's Decision

- If the inmate <u>receives CORC's decision</u>:

Within 5 days after receipt of the CORC decision, the inmate may appeal to the NYC BOC by filing an appeal with the Grievance Office.

*Extensions may be allowed if there is a valid reason for delay (i.e. circumstances beyond inmate's control)

- If the inmate <u>does not receive CORC's decision</u> within **20 days** of filing the appeal of the Commanding Officer's response:

The inmate should appeal to the NYC BOC by filing an appeal with the Grievance Office at the end of the 20 day period.

Upon receipt of the a signed appeal statement the Grievance Office will forward the disposition of CORC and the appeal to the BOC within 2 days.

STEP 4: APPEAL TO THE NYC BOC

NYC BOC Action for Commissioner Decision

Within 20 days, NYC BOC will forward its findings and non-binding recommendation to the Commissioner.

Within 20 days of receipt of the NYC BOC Action and Response, the Commissioner will respond. The Commissioner's decision is final. A copy will be transmitted to the inmate.



UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

MEMORANDUM

	Pro	Se Office	SCANNED		
To: From:	m: 1.5+Reot, Pro Se Office, x0177	c, U.S.M	OCT 21 2011 CHAMBERS OF		
Date:	The state of the s		ANDREW J. PECK		
Re:	Alli . Movley etal 11	CIU. 4047 CA	(35) (AJP)		
forward <u>See</u> Fed	The attached document, which was received by this Of nitted to the Court for filing. The document is deficie rarding the document to the docketing unit, I am forwarding Fed. R. Civ. P. 5(d)(2)(B), (4). Please return this memorance, indicating at the bottom what action should be taken.	ent as indicated belong it to you for your	ow. Instead of consideration.		
(>	No original signature.				
()	No affirmation of service/proof of service.				
()	The document appears to be a request in the form of a letter.				
()	Other:				
K	ACCEPT FOR FILING () RET	ΓURN TO <i>PRO SE</i>	LITIGANT		
Comm	mments:	ted States District Ju	udge		

Dated:

United States Magistrate Judge

HON. ANDREW J. PECK United States Magistrate Judge Southern District of New York